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Rochester, MN 55901-4441*

April 23, 2023

The Honorable Melissa Hortman
The Honorable Liz Olson
The Honorable Zack Stephenson
Minnesota State Capitol
St. Paul, MN 55155

Dear Speaker Hortman, Chair Olson and Chair Stephenson,

My name is Jessica Eidem. I am IBM's Senior State Executive for Minnesota, as well as an IBM Master Inventor, with over 20 years of experience with IBM in Minnesota, and have been awarded over 40 patents during that time.

I am writing on behalf of IBM to share our company's concerns about the potential negative impact of digital fair repair legislation (SF 1598/HF 1337, as contained in SF 2744 Commerce Budget Bill), and to request that non-consumer information technology equipment designed for enterprise deployment be excluded from this legislation.

IBM began operations in Minnesota in 1956 in Rochester, where it remains today. IBMers in Rochester develop leading technologies on which businesses and governments depend. IBM Rochester leads in systems software and chip development, incorporated into critical high technology such as Power servers, zSystems (mainframe) servers, supercomputers, and IBM-i operating system software. These Rochester teams are key to the development and delivery of the world's most powerful supercomputers, including Summit (#5) and Sierra (#6) – TOP500, which are installed at the Oak Ridge and Lawrence Livermore National Labs. IBM Rochester is also involved in IBM's Quantum computing efforts, designing the production room temperature electronics system.

These and other IBM products are being used in Minnesota to keep the state's economy and infrastructure up and running, including the functioning of government, and would be put at risk from passage of SF 1598/HF 1337 forcing OEMs of digital equipment to provide code, repair tools, parts, and maintenance materials to independent repair providers.

Clients such as banks, governments, health care companies, telecommunications providers, and other large businesses choose IBM's technology systems for their resiliency, security, and privacy protections. These 21st century systems are holistically designed for the cybersecurity challenges of today. The potential for harm from compromise of such systems is significant, because these systems handle huge amounts of sensitive data about individuals and businesses. Maintaining the security of our clients' systems is paramount. Compelling IBM to broadly provide sensitive software, documentation and other tools could make those systems vulnerable to bad actors.

Entrusting the diagnosis and repair of these systems that run the critical infrastructure on which our day-to-day lives depend to independent repair providers that have not made the appropriate investments in innovation, training, and security would leave Minnesota – and Minnesotans – unnecessarily vulnerable to economic disruptions. The legislation appears to recognize this potential for adverse effects by excluding from its coverage other industries and important applications such as medical devices; but significantly it fails to exempt mission-critical information technology systems (such as those provided by IBM) on which the world relies.

Earlier this year, similar repair legislation was enacted in New York, and it contained modifications requested by the Governor that made the bill workable for businesses, including excluding any professional, industrial, business-to-government, or business-to-business equipment not normally sold to consumers. IBM believes that this exclusion would be the most effective way to protect the security and resiliency of information technology systems on which we all depend.

We appreciate the willingness of leaders in the House and Senate to acknowledge and address cybersecurity vulnerabilities that would be created by SF 1598/HF 1337. Unfortunately, the amendment proposed on April 21, 2023, would not adequately protect the cybersecurity of enterprise information technology and networking infrastructure systems relied upon by businesses and government in Minnesota and beyond. To address IBM's concerns, we ask that you and other legislators adopt the following exclusion:

To protect the cybersecurity of information technology infrastructure, nothing in this section applies to non-consumer information technology equipment designed for enterprise deployment.

IBM greatly appreciates your consideration of this language that will ensure that Minnesotans are not unnecessarily vulnerable to economic, security, and privacy disruptions brought about by SF 1598/HF 1337.

Best regards.

Sincerely,



Jessica R. Eidem
Minnesota Senior State Executive,
Director, Power Technical Sales, IBM Technology,
Worldwide

cc: Chris Schmitter
Chief of Staff to Governor Walz

Senator Karie Dziedzic
Senate Majority Leader

Senator Carly Melin
Executive Director of Senate Rules Committee

Steven Peterson
Senior Leadership Advisor

Senator Matt D. Klein, Chair,
Senate Commerce and Consumer Protection Committee

Senator Robert J. Kupec

Representative Peter Fischer

Members of the House and Senate